



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and college
districts throughout the
state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org
www.sclscal.org

General Counsel
Carl D. Corbin

Attorneys
Jennifer Henry
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Leah M. Smith
Loren W. Soukup
Erin E. Stagg

Of Counsel
Robert J. Henry
Frank Zotter, Jr.

LEGAL UPDATE

January 10, 2022

To: Superintendents, Member School Districts (K-12)

From: Loren W. Soukup *LS*
Senior Associate General Counsel

Subject: New Fingerprinting Requirements – Effective January 1, 2022
Memo No. 02-2022

The Education Omnibus Budget Trailer Bill (AB 130)¹ replaced Education Code section 45125.1 with new fingerprinting and criminal background check criteria for contracting agencies. Effective January 1, 2022, all contracts entered into by school districts, county offices of education, and charter schools (“LEAs”), where the contracting agency or its employees will interact with students outside the immediate supervision and control of the student’s parent or guardian or a school employee, must require a valid criminal records summary, as described in Education Code section 44237, for the contracting agency and its employees. This includes contracts for off-campus services, including virtual/online services, where the student will not be under the direct supervision of a parent/guardian or school employee. AB 130 broadened the application of this statute to all contracts, regardless of type, and removed the previous “limited contact” exception. The only current exceptions to the new fingerprinting requirement are for emergency/exceptional situations, as defined under Education Code section 45125.1, and for construction, reconstruction, rehabilitation and repair contracts, as permitted under Education Code section 45125.2.

Under the new statute, the contracting agency must certify in writing to the LEA that neither the agency nor its employees, who will have contact with students outside the immediate supervision and control of the student’s parent/guardian or school employee, have been convicted of a felony as defined under Education Code section 45122.1. If the contracting agency later performs the criminal background check for its employees, it must immediately provide to the LEA any subsequent arrest and conviction information it receives. The contracting

¹ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB130



agency and its employees are prohibited from having any interaction with students until the Department of Justice has ascertained that the employee has not been convicted of a felony.

Immediately, LEAs must ensure that all current contracts where the contracting agency or its employees have student contact outside the immediate supervision of a parent/guardian or school employee meet the new fingerprinting/criminal background check requirements. LEAs must also ensure that contract templates are updated and future contracts include these new requirements. LEAs are encouraged to contact our office for any assistance in determining whether a certain contract is subject to the new requirements or whether the contract complies with current law.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2022 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client's own non-commercial purposes.